IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6253 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DECEASED OF SAVA MEGHA

Versus

DHORAJI MUNICIPALITY

Appearance:

None present for Petitioners

None present for Respondent No.1

MS MANISHA LAVKUMAR AGP for Respondent Nos. 2 & 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 13/06/2000

ORAL JUDGEMENT

#. The petitioners, all five in number, filed this petition and prayed for the following reliefs :-

(A) to allow this petition with costs;

(B) to direct the respondent Municipality to make payment of the entire amount which remains due and payable to the petitioner together with interest at the rate of 18% p.a., with quarterly rent, in case of the petitioners Nos. 1 to 3 from the dates of the death of the employees (As per Annexure `B') and in case of the petitioners Nos. 4 to 6 from the date of their retirement (respectively);

(C) to direct the respondent Nos. 2 and 3 to take appropriate actions against the respondent No.1 Municipality as provided for under the provisions of Gujarat Municipalities Act;

(D) to issue interim mandatory directions directing the respondent No.1 Municipality to make payments of the amount of provident funds of Rs.12,184.50 which is due tot petitioners Nos. 1 to 5 and Rs.8,687.00 due to the petitioner Nos. 6 according to the Municipality as per statement Annexure `A' together with interest at the rate of 18% p.a. with quarterly rent within 15 days from the date of the order, pending the hearing and final disposal of this petition;

(E) to pass such other order or orders as the nature and circumstances may require;

#. The petitioner No.1 has expired during the pendency of this Special Civil Application and his heirs and legal representatives were brought on the record. The petitioner no.2 and 3 has also expired during the service and they are represented by their legal heirs. The predecessors of the petitioner Nos. 1, 2 and 3 were working as Sweepers in the office of the respondent No.1 for more than 30 years. The petitioner Nos. 4 and 5 were also working as sweepers and they have retired from the service on 31.7.1988 and 30.4.1988. The petitioner No.6 was working as Watchman, who retired on 30.4.88. The grievance of the petitioner is that entire amount of retirement benefits have not been paid to them. It is prayed by the petitioners Nos.1 to 5 for direction to the respondent No.1 to pay Rs.12,184.50 them and Rs.8,687/=

to the petitioner No.6 towards PF dues. They further prayed to the respondent No.1 to pay interest thereon @18% p.a. Any of the respondents has not filed reply to this Special Civil Application and the averments made therein are to be taken to be admitted. On 29.6.90 this court has ordered :-

"Leave to amend granted. Heard the learned advocates appearing for the parties as regards interim relief. By way of ad-interim relief respondent-Municipality is directed to compute the amount of terminal benefits payable to each of the petitioner latest by July 13, 1990 and place the details of the calculation on record of the petition on July 16, 1990. The computation as indicated hereinabove shall also include the details with regard to liability of interest @18% p.a. with quarterly rent. The interest liability as calculated above shall be shown separately. Respondent No.1 is further directed to depute responsible officer to remain personally present in the court on July 16, 1990. S.O. to July 16, 1990"

#. In compliance of the order of this court, the respondent filed on the record the calculation of the amount payable to the petitioners. On 16.7.1990 this court has ordered as under :-

"Pursuant to the directions given on 29.6.90, respondent No.1 has filed statement showing the details regarding the amount payable to each of the petitioners. Respondent no.1 is directed to make payment of 15% (fifteen percent) of the total amount as indicated in the statement submitted by respondent No.1 to each of the petitioners latest by August 3, 1990.

The petitioners will accept the aforesaid amount subject to their right to contend that the amount indicated in the statement submitted by respondent No.1 is not correct and it is required to be revised on the basis of the objections that may be filed by the petitioners. For further direction, the matter is adjourned to 7.8.90".

#. On 7.8.90 it is stated that the order of this court dated 16.7.90 is complied with.

#. On 13.6.91 this court has ordered as under :-

"Heard the leaned advocates. Mr.Dave has pointed out that earlier this court (Coram : A P Ravani, J.) on 16.7.90 has issued a direction to make the payment of 15% of the total amount as indicated in the statement submitted by respondent no.1 to each of the petitioners latest by August 3, 1990. The petitioners are waiting for their benefits since long. Under the circumstances, it is directed that respondent no.1 shall make the payment of 15% of the total remaining outstanding to each of the petitioners latest by 25.7.1991. The petitioners will accept the aforesaid amount subject to their right to contend that the amount indicated in the statement submitted by respondent no.1 is not correct and that it is required to be revised on the basis of the objections that may be filed by the petitioners. For further direction in the matter, the matter stands adjourned to 25.7.1991".

#. The petitioners have not filed any objections to the calculation slips submitted by the respondent No.1 and that has to be accepted to be correct. In pursuance of the order of this court the part of the amount would have been paid by respondent to the petitioner. This writ petition is allowed to the extent as per the calculation slip as submitted by the respondent No.1 for the amount payable to the petitioners if anything remains to be paid the same may be paid to the petitioners with interest @18% from the date of filing of this petition till date of payment thereof within a period of one month from the date of the receipt of the writ of this order. The respondents are directed to pay Rs.200/= as costs of this petition to each petitioner. This amount has also to be paid to the petitioners within a period of one month from the date of the receipt of writ of this order. Rule accordingly stands disposed of.

(S.K.Keshote, J.)

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